



UNITED STATES
CIVILIAN BOARD OF CONTRACT APPEALS

MOTION TO DISMISS DENIED: March 26, 2015

CBCA 4083, 4092

ARTIS BUILDERS, INC.,

Appellant,

v.

DEPARTMENT OF VETERANS AFFAIRS,

Respondent.

Williams L. Bruckner and Thomas M. Regan of Bruckner Law Firm, APC, San Diego, CA, counsel for Appellant.

Mary A. Mitchell, Office of Regional Counsel, Department of Veterans Affairs, Houston, TX, counsel for Respondent.

Before Board Judges **SOMERS**, **STERN**, and **ZISCHKAU**.

ZISCHKAU, Board Judge.

On October 15, 2014, respondent filed a motion to dismiss these consolidated appeals on the ground that the Board's initial scheduling order set the date for filing of the complaint as October 14, 2014, but appellant actually filed the complaint on October 15, 2014.

Respondent's motion is entirely without merit. First, as noted in the Board's order issued on October 16, 2014, the Board had previously held a status conference with the parties on September 16, 2014, at which time the parties advised that they desired to mediate their dispute. At that September 16 conference, the Board suspended the deadlines for pleadings and the Board advised the parties that they should consult with whoever would be appointed as the Board neutral to identify the specific materials that the Board neutral would need to effectively assist the parties in mediating the dispute. Thus, appellant did not violate any order by the Board under the initial scheduling order when it filed a complaint on

October 15, 2014.

Decision

Respondent's motion to dismiss is **DENIED**.

Appellant shall provide to respondent by close of business March 26, 2015, a breakdown of the incurred costs of performance, as discussed in the March 25 status conference.

JONATHAN D. ZISCHKAU
Board Judge

We concur:

JERI K. SOMERS
Board Judge

JAMES L. STERN
Board Judge